MONTANA LEGISLATIVE HISTORY

Chapter 564 1983

Bill H 856 S _____ Original bill & history ✓ C

H. Committee on Human Services			S. Committee on Judiciary		
Hearing Date(s)	Feb 21	✓ C	Hearing Date(s)	Mar 23	✓ C
		C		Mar 24	✓ C
		C			C
		C			C
Date Out	Feb 21	✓ C		Mar 24	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

HOUSE BILL NO. 856

INTRODUCED BY BERGENE, VINCENT

IN THE HOUSE

February 15, 1983	Introduced and referred to Committee on Human Services.
February 21, 1983	Committee recommend bill do pass. Report adopted.
February 22, 1983	Bill printed and placed on members' desks.
	Second reading, do pass as amended.
February 23, 1983	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Judiciary.
March 25, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1983	Second reading, concurred in.
March 28, 1983	Third reading, concurred in. Ayes, 45; Noes, 0.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
April 4, 1983	Second reading, amendments concurred in.

April 5, 1983	Third reading, amendments concurred in. Sent to enrolling. Reported correctly enrolled.

House BILL NO. 856

INTRODUCED BY Beregane Vincent

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN ORDER OF LIMITED EMANCIPATION TO BE GRANTED TO A YOUTH WHO IS 16 YEARS OF AGE OR OLDER AND WHO IS FOUND TO BE ABUSED, NEGLECTED, OR DEPENDENT; AMENDING SECTIONS 41-1-306, 41-3-102, AND 41-3-405 THROUGH 41-3-407, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-102, MCA, is amended to read:

"41-3-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Child" or "youth" means any person under 18 years of age.

(2) An "abused or neglected child" means a child whose normal physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of his parent or other person responsible for his welfare.

(3) "Harm to a child's health or welfare" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(a) inflicts or allows to be inflicted upon the child physical or mental injury, including injuries sustained as a result of excessive corporal punishment;

(b) commits or allows to be committed a sexual assault against the child or exploits the child or allows the child to be exploited for sexual purposes or commits or allows to be committed the act of sexual abuse of children as defined in subsection (1) of 45-5-625;

(c) causes failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or health care, though financially able to do so or offered financial or other reasonable means to do so; or

(d) abandons the child by leaving him under circumstances that make reasonable the belief that the parent or other person does not intend to resume care of the child in the future or by willfully surrendering physical custody for a period of 6 months and during that period does not manifest to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child; or

(e) is unknown and has been unknown for a period of 90 days and reasonable efforts to identify and locate the parents have failed.

(4) "Adequate health care" means any medical or nonmedical remedial health care permitted or authorized

LC 0744/01

INTRODUCED BILL

under state law.

(5) "Threatened harm" means imminent risk of harm.

(6) "A person responsible for a child's welfare" means the child's parent, guardian, or foster parent; an employee of a public or private residential institution, facility, home, or agency; or any other person legally responsible for the child's welfare in a residential setting.

(7) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily organ or function.

(8) "Mental injury" means an identifiable and substantial impairment of the child's intellectual or psychological functioning.

(9) "Dependent youth" means a youth:

(a) who is abandoned;

(b) who is without parents or guardian or not under the care and supervision of a suitable adult;

(c) who has no proper guidance to provide for his necessary physical, moral, and emotional well-being;

(d) who is destitute;

(e) who is dependent upon the public for support; or

(f) whose parent or parents have voluntarily relinquished custody of the child and whose legal custody has been transferred to a licensed agency.

(10) "Youth in need of care" means a youth who is

dependent, abused, or neglected as defined in this section.

(11) "Supervision" means the authority granted by a youth court or by a voluntary agreement of a parent to determine the foster care placement of a child and the length of stay of a child in foster care and provide for the needs of a child under subsection (1) of 41-3-104.

(12) "Department" means the department of social and rehabilitation services provided for in 2-15-2201.

(13) "Limited emancipation" means a status conferred on a dependent youth by a court after a dispositional hearing in accordance with 41-3-406 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older."

Section 2. Section 41-3-405, MCA, is amended to read:

"41-3-405. Investigation of parents' or guardian's financial ability. (1) Whenever a court determines a youth to be an abused, neglected, or dependent child pursuant to 41-3-404, the court shall issue an order directing the county welfare department of the county in which the petition was filed to conduct an investigation of the financial status of the child's parents or the extent of guardianship assets.

(2) (a) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of

ascertaining the residence of the parents or guardian of the child and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the child;

(i) in a foster home, child care agency, group home, or private treatment facility; or

(ii) as a child of limited emancipation, as may be ordered under 41-3-406.

(5) A written report of the investigation shall be filed with the clerk of court before the time fixed for the dispositional hearing.

(3) A copy of the written report shall be provided to all parties to the proceeding before the time set for the dispositional hearing."

Section 3. Section 41-3-406, MCA, is amended to read:

"41-3-406. Dispositional hearing. (1) If a youth is found to be abused, neglected, or dependent under 41-3-404, the court after the dispositional hearing may enter its judgment making any of the following dispositions to protect the welfare of the youth:

(a) permit the youth to remain with his parents or guardian subject to those conditions and limitations the court may prescribe;

(b) grant an order of limited emancipation to a youth who is 16 years of age or older as provided in [section 5];

~~(b)~~(c) transfer legal custody to any of the following:

(i) department of social and rehabilitation services;

(ii) a child-placing agency willing and able to assume responsibility for the education, care, and maintenance of the youth and which is licensed or otherwise authorized by law to receive and provide care of the youth; or

(iii) a relative or other individual who, after study by a social service agency designated by the court, is found by the court to be qualified to receive and care for the youth;

~~(c)~~(d) order any party to the action to do what is necessary to give effect to the final disposition, including undertaking medical and psychological evaluations, treatment, and counseling;

~~(d)~~(e) order such further care and treatment as the court may deem in the best interest of the youth.

(2) Whenever the court vests legal custody in any agency, institution, or department, it shall transmit with the dispositional judgment copies of any medical report and such other clinical, predisposition, or other reports and information as may be pertinent to the care and treatment of the youth.

(3) Any youth found to be abused, neglected, or dependent may be committed or the court may make such other disposition of the child as the court deems best for his

social and physical welfare. The form of commitment shall be as follows:

ORDER OF COMMITMENT

State of Montana)
) ss.
County of .....)

In the district court for the .... Judicial District.

On the .... day of ...., 19.., ..., minor of this county, was charged on the petition of ...., county attorney of .... County, with being an abused or neglected or dependent child. Upon due proof I find that it is for the best interests of the child that he be taken from the custody of his parents, guardian, or other person having custody of him.

The names, addresses, and occupations of the parents are:

Name	Address	Occupation
.....		
.....		

The child's guardian is .....

The child is in the custody of .....

It is ordered that .... be committed to .... until discharged as provided by law.

Witness my hand this .... day of ...., A.D. 19...

.....

Judge

(4) Transfer of legal custody of a child shall include guardianship of any assets or estate of the child, unless otherwise specified by the court.

(5) Except in cases in which the court permanently terminates all parental rights or rights of the guardian of the youth, the court shall retain jurisdiction over the case and may subsequently modify any disposition ordered pursuant to this section."

Section 4. Section 41-3-407, MCA, is amended to read:

"41-3-407. Order for financial support. (1) Whenever a youth is placed in a foster home, child care agency, group home, or private treatment facility or has been granted an order of limited emancipation under 41-3-406, the court shall determine the ability of the youth's parents or guardian to contribute to the support of the youth or the adequacy of the guardianship assets to provide a contribution. This question of financial ability shall be considered at the dispositional hearing, and evidence concerning financial status may be introduced. In determining financial ability the court shall consider the report prepared pursuant to 41-3-405 and any other evidence introduced at the dispositional hearing.

(2) If the court determines that the parents are able to contribute to the support of the youth or that the

guardianship assets are adequate to provide a contribution, the court shall issue an order directing the parents or guardian to make specified payments to the department of social and rehabilitation services to the extent considered appropriate under the circumstances. Payments required of a guardian may not exceed the funds available from guardianship assets. Upon a showing of change in financial ability, the court may modify the order."

NEW SECTION. Section 5. Limited emancipation. (1) The court, after the dispositional hearing provided for in 41-3-404, may, upon the request of a youth who is 16 years of age or older, enter an order granting limited emancipation to the youth.

(2) Limited emancipation may be granted only if the court has found:

(a) that limited emancipation is in the youth's best interests;

(b) that the youth desires limited emancipation;

(c) that there exists no public interest compelling denial of limited emancipation;

(d) that the youth has, or will reasonably obtain, money sufficient to pay for financial obligations incurred as a result of limited emancipation;

(e) that the youth, as shown by prior conduct and preparation, understands and may be expected to responsibly

exercise those rights and responsibilities incurred as a result of limited emancipation; and

(f) that the youth has graduated or will continue to diligently pursue graduation from high school, unless circumstances clearly compel deferral of education.

(3) An order of limited emancipation must specifically set forth the rights and responsibilities that are being conferred upon the youth. These may include but are not limited to one or more of the following:

(a) the right to live independently of in-house supervision;

(b) the right to live in housing of the youth's choice;

(c) the right to directly receive and expend money to which the youth is entitled and to conduct his own financial affairs;

(d) the right to enter into contractual agreements and incur debts;

(e) the right to obtain access to medical treatment and records upon the youth's own authorization; and

(f) the right to obtain a license to operate equipment or perform a service.

(4) An order of limited emancipation must include a provision requiring that the youth make periodic reports to the court upon terms prescribed by the court.

(5) If no order for contribution is made under 41-3-407 and the court determines that a youth to whom limited emancipation is granted does not have sufficient funds to finance transition to limited emancipated status, the court may order the department to provide such funds, not to exceed $500, directly to the youth. The youth shall account to the court for the disposition of such funds and shall repay all such money to the department within 1 year of the order of limited emancipation unless the court for cause orders an extension.

(6) The court, on its own motion or on the motion of any parties to the dispositional hearing, may modify or revoke the order upon a showing that:

(a) the youth has committed a material violation of the law;

(b) the youth is failing to diligently pursue graduation from high school;

(c) the youth has violated a condition of the limited emancipation order; or

(d) the best interests of the youth are no longer served by limited emancipation.

(7) The department shall mail a copy of this part to all high school counseling offices.

Section 6. Section 41-1-306, MCA, is amended to read:

"41-1-306. Minor cannot disaffirm certain obligations.

A minor cannot disaffirm an obligation, otherwise valid, entered into by him under the express authority or direction of a statute or when he has been granted limited emancipation, including a specific right to enter into contracts under 41-3-406 and [section 5]."

NEW SECTION. Section 7. Codification instruction. Section 5 is intended to be codified as an integral part of Title 41, chapter 3, part 4, and the provisions of Title 41, chapter 3, apply to section 5.

NEW SECTION. Section 8. Effective date. This act is effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 499-83

FISCAL NOTE

Form BD-15

In compliance with a written request received March 18, 19 83, there is hereby submitted a Fiscal Note for House Bill 856 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 856 would allow an order of limited emancipation to be granted to a youth who is 16 years of age or older and who is found to be abused, neglected or dependent.

ASSUMPTIONS:

1) Assume 900 children currently in Foster Care.
2) Assume 300 of the 900 children are 16 to 18 years of age.
3) Assume 75 of the 300 children are probation cases leaving 225 eligible emancipation cases.
4) Assume 67 of the 225 children are in restrictive care settings leaving 158 eligible cases.
5) Assume 10% of the 158 cases would want emancipation for a total of 16 cases.
6) Assume if emancipated, the 16 would not go into foster care of $302.50 per month thus creating a savings in foster care of $58,080 of which $22,070 is general fund.
7) Assume SRS or some agency would need to pay for counseling 1 session per week at $25 per session in FY 84 and $27 in FY 85.
8) Assume half of the $500 one-time general fund payments would not be paid back.
9) Assume a 6% inflation increase.
10) Assume the population of 16 to 18 year olds eligible or emancipation remains constant.

FISCAL IMPACT:

	FY84	FY85
Foster Care Savings:		
General Fund	$ 23,364	$ 24,765
Federal	16,259	17,235
County	21,942	23,258
TOTAL	$ 61,568	$ 65,258
Expenses:		
Counseling	$ 19,200	$ 20,736
Uncollectables	4,000	4,000
Total Expenses (GF)	$ 23,200	$ 24,736
Overall Savings	38,365	40,522
General Fund Savings	$ 164	$ 29

FISCAL NOTE 17:R/1

David W. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-21-83

3RD READING: 02/23/83, DO PASS AYES: 99; NAYS: 1

TRANSMITTED TO SENATE: 02/23/83
REFERRED TO COMMITTEE ON JUDICIARY: 3/1/83
HEARING: 3/19/83
REPORT: 03/19/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/22/83 AYES: 49; NAYS: 0
3RD READING: 03/24/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/24/83
2ND READING: 03/31/83, BE CONCURRED IN AYES: 90; NAYS: 0
3RD READING: 04/01/83, BE CONCURRED IN AYES: 86; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/12/83
SIGNED: 04/14/83, CHAPTER 511

SB 856 -- BERGENE, VINCENT -- TO ALLOW AN ORDER OF LIMITED EMANCIPATION TO BE GRANTED TO A YOUTH WHO IS 16 YEARS OF AGE OR OLDER AND WHO IS FOUND TO BE ABUSED, NEGLECTED, OR DEPENDENT; AMENDING ....

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON HUMAN SERVICES: 02/15/83
HEARING: 2/21/83
REPORT: 02/21/83, DO PASS
2ND READING: 02/22/83, DO PASS, AS AMENDED AYES: 99; NAYS: 0
3RD READING: 02/23/83, DO PASS AYES: 100; NAYS: 0

TRANSMITTED TO SENATE: 02/23/83
REFERRED TO COMMITTEE ON JUDICIARY: 3/1/83
HEARING: 3/23/83
REPORT: 03/25/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/26/83 AYES: 48; NAYS: 0
3RD READING: 03/28/83 AYES: 45; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/28/83
2ND READING: 04/04/83, BE CONCURRED IN AYES: 90; NAYS: 0
3RD READING: 04/05/83, BE CONCURRED IN AYES: 98; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/14/83
SIGNED: 04/18/83, CHAPTER 564

SB 857 -- ABRAMS, SPAETH, PAVLOVICH -- AUTHORIZING MUTUAL AID AGREEMENTS AMONG LAW ENFORCEMENT AGENCIES OF THIS AND OTHER STATES AND THE UNITED STATES; SPECIFYING AUTHORITY OF LAW ENFORCEMENT OFFICERS AND AGENCIES; CLARIFYING THE EFFECT OF AGREEMENTS ON LEGAL DUTIES OF LAW ENFORCEMENT AGENCIES; PROVIDING FOR APPROVAL AND FILING OF AGREEMENTS; AUTHORIZING AGENCY COMMITMENT OF FUNDS, PERSONNEL, AND EQUIPMENT FOR PURPOSES OF AGREEMENTS; ....
BY REQUEST OF: THE DEPARTMENT OF JUSTICE

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/15/83
HEARING: 2/21/83
REPORT: 02/21/83, DO PASS
2ND READING: 02/23/83, DO PASS AYES: 95; NAYS: 1
3RD READING: 02/23/83, DO PASS AYES: 92; NAYS: 1

NORMA VESTRE, Department of Social and Rehabilitation Services, supports this bill noting that the present administration has created an office of coordinator whose responsibilities are to coordinate programs for aging across several departments.

SAM RYAN, member of LISCA, supported HOUSE BILL 873.

RENE BRERTON, MSCA, Helena, supported this legislation for two reasons: (1) this gives senior citizens access to administration and all state departments and (2) it is mandatory that aging programs be administered efficiently.

OPPONENTS: None

REP. JAN BROWN closed.

QUESTIONS:

REP. WINSLOW: I have some suggested amendments and would like your input. In subsection (2) the Coordinator of Aging must be appointed by the Governor and shall serve at the pleasure of the Governor--the people I have conferred with would like to have it say that the appointment shall be made after conferring with local Areas on Aging and Planning Service Areas so they have some input into that.
REP. BROWN: That sounds like a good idea.
REP. WINSLOW: In section 3, the Coordinator shall work with the Governor's Council on Aging. Otherwise, it looks like they may create an advisory council.
REP. BROWN: That is satisfactory.
REP. WINSLOW: In section 2 (2) the Coordinator shall meet with senior citizens local Areas on Aging and Planning Service Areas and the general public. That way, we know that they will be conferring with people that are in place at this time.
WADE WILKISON: The amendments seem to be appropriate.

CHAIRMAN HART closed the hearing on HOUSE BILL 873.

HOUSE BILL 856

REP. BERGENE, sponsor. This bill would permit a court to allow a youth limited emancipation at the age of 16. The action could be taken only after a dispositional hearing and under certain circumstances and conditions. She stated that limited youth emancipation really deals with youth who are 16 years of age or older and are found to be abused, neglected or dependent. It was felt that only about 30 to 50 youths would be involved in this type of program statewide. The term "emancipation" is never really defined in the statutes. What we are trying to establish in this bill is to coordinate the findings and criteria

for court-ordered limited emancipation including requirements that the youth diligently pursue high school graduation and pay any SRS money fronted to the youth during transition to limited emancipation status.

BILLIE NIMMONS supported HOUSE BILL 856 and it is her belief that upon passing it, it would be in the best interest to state dependent youth of Montana (EXHIBIT 5).

CELINDA LAKE, representing the Women's Lobbyist Fund, said she supported HOUSE BILL 856.

RICHARD MEAKER, Chief Probation Officer of the First Judicial District, stated he was in support of the bill. However, the problem he had was that many of the abused children themselves become abusive parents. One of the things he recommended was that some strong suggestion of counseling be recommended to any child looking for emancipation.

LINDA WOOD, Executive Director, Attention Home, Inc., stated that the number one goal of the Attention Home and the placement agencies we work with is to reunite these youths with their natural families. This is accomplished in approximately 50% of the cases. However, the remaining 50% or so are unable to be returned to their natural family because of serious family problems such as physical, emotional and/or sexual abuse, severe neglect, loss or separation of parent figures through death, abandonment or even illness, inability of the parents to continue raising their child or a complete breakdown within the family unit which no longer enables them to function. In such cases, the youth in question must be placed outside of his home permanently. The Attention Home shelters such youths while the more permanent solution is being found. Each year we see a number of youths who fall between the cracks and who are not suitable for placement into the existing system. Some of these youths would be excellent candidates for early emancipation. (EXHIBIT 6)

OPPONENTS:

GLEN HUFSTETLER, Chief Probation Officer, Eleventh Judicial District, representing the Probation Officers Association, opposed HOUSE BILL 856 mainly because it is too broad and too wide. There are under the existing law provisions where youth who are in need of dependent living can be placed. His main concern is the dependent youth--a youth who is abandoned, a youth who has no proper guidance. This would place many

youth on their own where there is no supervision. By allowing this kind of youth to have the responsibility for their own behavior and not being mature enough to handle that responsibility, we see an extremely costly provision being leased on taxpayers and their community. We would urge the Committee to do not pass HOUSE BILL 856.

REP. BERGENE closed saying this bill does not address those needs of kids who need supervision. We are talking about those kinds of youth who have been abused, neglected and abandoned who are anxious to get away from this type of situation. Keep in mind that limited emancipation is supervised by the court. We are talking about some financial help. That is outlined in the bill. If the youth is not able under the present statutes to get funds, the court could possibly award a grant of not more than $500 and that would be made from SRS.

QUESTIONS:

REP. WINSLOW: Regarding counseling--do you feel it would be appropriate to amend page 10 (g) that the youth will undergo periodic counseling with an appropriate advisor. On the last page--that it could be revoked if the youth discontinues periodic counseling with an appropriate advisor. The reason I say "appropriate advisor" is because it is under the control of the court.
REP. BERGENE: That would be a good provision.

REP. DRISCOLL: A person who is 17 years old is an orphan. Their parents leave them a house and money. Why should they have to see a counselor?
REP. WINSLOW: The court is taking on the responsibility of the child or this person. The court can set that they see an appropriate advisor once a month or once every six months. But I think there is some responsibility that needs to be taken if the court is going to be responsible.
REP. BERGENE: Did you mean to make it mandatory?
REP. WINSLOW: Yes. Somebody needs to be reviewing where that person is at.

CHAIRMAN HART: When something like that happens, doesn't the court appoint a guardian automatically.
REP. BERGENE: Under the new statute, the youth that has limited emancipation could live in an apartment or some good place where the court approved. Without the limited emancipation, they would have an appointed guardian. These children do not want to make new ties to a family.

REP. SWIFT: Mr. Hufstetler, would you be in agreement?
MR. HUFSTETLER: There is no question, the counseling would alleviate some of our concern. However, I think there has been some misunderstanding. On page 3, lines 18, we act like we are talking about the abused child or the child left without a parent. What about the kid who has two alcoholic parents? A dependent child falls under that category where it says a person who has no proper guidance. There are a lot of kids just brought into the community. They have no regard for their youth and we have little transients running around our community. We would hate to see provision where these youth could get an apartment and make pleas requesting the court to grant them immunity. If we could take a look at the definition of "dependent youth" and clarify that, we would have no opposition to the bill.
REP. DOZIER: The bill says "after a dispositional hearing". They are not granting these youth a thing until there has been a hearing.
GLEN HUFSTETLER: What about a youth who comes in from Spokane who has been granted emancipation? How do we deal with them?
REP. DOZIER: Whether this bill passes or fails won't deal with them.
GLEN HUFSTETLER: Yes, it does because right now they cannot stay there. They could be sent back.
REP. BRAND: You are coming from an environment where there is a lot of hostility--alcoholic parents, etc., and now we are saying we want to get those children away from that kind of an environment. This bill says the courts are going to rule in what they are going to do with them. Why do you object so strenuously?
GLEN HUFSTETLER: What we are saying is that the existing law already provides for that. One of our big concerns--we open up the emancipation can of worms and we are going to have people finding ways around it.
REP. BRAND: What about irresponsible parents--what do you do?
GLEN HUFSTETLER: All the child has to do is make application to the court or go to SRS--find a place to live.
REP. DOZIER: But you don't want to allow this one option?
GLEN HUFSTETLER: All I am saying, I would like to see on page 3 the definition clarified so that a child without parental supervision placed in a position where he does have parental supervision.
REP. BRAND: Do you think all children have to have parental control?
GLEN HUFSTETLER: Not all children, no.
REP. BERGENE: What we are talking about does not exist in the statutes right now. I think Mr. Hufstetler is talking about the Youth Court Act. He is combining dependent youth with

delinquent youth. We are concerned with the kinds of children that come into an Attention Home like Linda Wood runs. The children have not committed any kind of serious offense.

CHAIRMAN HART closed the hearing on HOUSE BILL 856.

HOUSE BILL 880

REP. BERGENE, sponsor. This bill requires any abuse, neglect, or exploitation of older persons to be reported to the Department of Social and Rehabilitation Services. The bill describes legal obligations of and limitations on persons involved in the reporting. The bill also provides a penalty for inflicting suffering on older persons and for failure to report such incident.

PROPONENTS:

NORMA VESTRE, Department of Social and Rehabilitation Services, supports this bill.

CELINDA LAKE, Women's Lobbyist Fund, supports HOUSE BILL 880. She said abuse of the elderly is not a localized problem. It is a problem that Montana like other states has largely ignored, but it is a problem equal in magnitude to child abuse and spouse abuse--two areas which we have begun to deal with in terms of reporting, crisis intervention, and protective services (EXHIBIT 7).

CHARLES BRIGGS, Office of the Governor, also supported this legislation. He emphasized this is a reporting bill because what is in need is getting statistics and information through reporting requirements being able to gauge and assess the need that is out there. Quoting from Select Committee on Aging, U. S. House of Representatives, p. 14, "Abuse of the elderly by their loved ones and caretakers exist in frequency and rate only slightly less than child abuse on the basis of data supplied by the states. This Committee concluded that some 4% of the nation's elderly may be victims of some sort of abuse from moderate to severe." To put that into context, presently there are only 5% (60 years or older) residing in nursing homes. This problem is one that must be dealt with by Montana law. In section 11, page 8, dealing with the penalties, beginning with line 6--Infliction of suffering on older person -- penalty

Strike: Lines 11 through 13
Insert: "is subject to prosecution as defined by Title 41-3-106, MCA"

This simply says if the evidence indicates violation of the criminal code, it shall be the responsibility of the county attorney to file probate charges against the alleged offender.

EXECUTIVE SESSION

HOUSE BILL 269

This bill would allow a county rather than a city, town, or municipality to establish a fund for licensed day-care centers.

REP. JAN BROWN moved that HOUSE BILL 269 DO PASS.

REP. JAN BROWN moved that the amendments to HOUSE BILL 269 be accepted (EXHIBIT 9).

The motion passed unanimously.

REP. JAN BROWN moved that HOUSE BILL 269 DO PASS AS AMENDED.

The motion was carried unanimously.

HOUSE BILL 880

This bill requires any abuse, neglect, or exploitation of older persons to be reported to the Department of Social and Rehabilitation Services.

REP. KEYSER moved HOUSE BILL 880 DO PASS.

The motion carried unanimously.

HOUSE BILL 873

This bill would create a state Office of Aging in the Office of the Governor.

REP. WINSLOW moved HOUSE BILL 873 DO PASS.

The motion carried unanimously.

HOUSE BILL 856

This bill would permit a court to allow a youth limited emancipation at the age of 16.

REP. FARRIS moved HOUSE BILL 856 DO PASS.

The motion carried unanimously.

Ex 5
HB 8

TESTIMONY - LIMITED YOUTH EMACIPATION
HOUSE BILL 856
BILLIE NIMMONS - 18
PARK HIGH SCHOOL - LIVINGSTON

Concerning House Bill 856 regarding Limited Youth Emacipation it is my belief by passing this bill would be in the better interest to certain youth in Montana.

In March of 1979, I lost the last of my remaining parents, I was 14 years old. The following three years I lived at home, becoming a self-supporting individual.

At age 17 I was placed by S.R.S. under foster care. This organization was faced with the dillema of continuing myself under foster care or to place me in an institutional dwelling. Both I and my appointed social worker agreed that neither of these choices would be in the best interest of my paticular case. Upon my own insistance and with the help of former District Judge Jack Shanstrom I was allowed to live alone in a facility of my own choice. S.R.S. had no such existing policy nor had Montana Code alloted for a case such as my own. This is where Limited Youth Emacipation is needed. This law onlywould apply to youth in dependency proceedings because of neglect, abandonment, or abuse, and only to the few of those who are over 16 and desire Limited Emacipation.

Also current law and regulations cut off all state support for a dependent youth on the youth's 18th birthday, at which time the youth is forced to leave the foster home and support himself or herself. HB 856 provides an alternative to this "instant adulthood" by allowing the youth certain adult rights before he or she is 18.

In addition House Bill 856 requires a youth, as a condition of emacipation to stay in school until graduation, repay any money fronted by S.R.S., and to fulfill any and all contractual obligations incurred during limited emacipation.

I support the Limited Emacipation Bill and it is my belief that upon passing it, it would be in the best interest to state dependent youth of Montana. Thank You.

Ex 6
HB 85

Attention Home (406) 442-7484
Attention Home Runaway Program (406) 443-4186
602 N. Ewing Helena, Montana 59601

House Bill 856
A Bill to Allow Limited Emancipation of Minors

Linda Wood Linda Wood
Executive Director
Attention Home, Inc.

IN FAVOR of HB 856

I urge the committee to give a "Do Pass" recommendation to HB 856 providing for limited emancipation of youths who are 16 years of age or older and who would best benefit by such emancipation.

The Attention Home provides short-term emergency shelter to adolescents. In other words, the Home provides care and shelter while a youth is in a state of crisis and is in transition from one placement to another. In a one year period, the Home shelters 160-180 youths. The number one goal of the Attention Home and the placement agencies we work with is to re-runite these youths with their natural families. This is accomplished in approximately 50% of the cases. However, the remaining 50% or so are unable to be returned to their natural family because of serious family problems such as physical, emotional and/or sexual abuse, severe neglect, loss or separation of parent figures through death, abandonment or even illness, inability of the parents to continue raisir their child or a complete breakdown within the family until which no longer enables them to function. In such cases, the youth in question must be placed outside of his home permanently. The Attention Home shelters such youths whil the more permanent solution is being found. Each year we see a number of

youths who fall between the cracks and who are not suitable for placement into the existing system. Some of these youths would be excellent candidates for early emancipation.

Older (16 and 17) adolescents are the most difficult to place in existing group care facilities and foster homes. Foster homes are few and far between for teen-agers in the best of situations. Placement into foster homes for 16 and especially 17 year olds is made more difficult because they are not emotional seeking another family. Intact families are preparing their 16 and 17 year old children for leaving home by helping to ready them for future schooling, military service, job training and independent living. These children who find them selves in need of out-of-home placements at the age of 16 or 17 are caught in the double bind of having to prepare for independence while being expected to attach themselves to a new family. It is partially for these reasons, older adolescents are not frequently placed in private foster homes. Group home programs are often times designed for specific lengths of stay as part of their treatment program. Many times the older adolescent will be 18 before the treatment program can be completed and this generally causes a facility to only accept younger clients. Thus, there are some resources for the older adolescent, but generally not enough options to make out-of-home placements successful.

HB 856 would allow some of these youths to obtain an emancipated status where they could live on their own and begin to assume responsibilities for their own lives. The Bill would not allow for Courts or Welfare Departments to simply "dump" adolescents on the streets. The screening process outlined in the bill would ensure only those youths who would be best served by limited emancipation would be eligible. The provisions for continued schooling and reporting regularly to the Courts or Welfare Department would provide on-going evaluation of the process and again ensure that only those youths capable of handling the responsibility would be emancipated.

STANDING COMMITTEE REPORT

February 21, 19 83

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 856

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A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN ORDER OF LIMITED EMANCIPATION TO BE GRANTED TO A YOUTH WHO IS 16 YEARS OF AGE OR OLDER AND WHO IS FOUND TO BE ABUSED, NEGLECTED, OR DEPENDENT; AMENDING SECTIONS 41-1-306, 41-3-102, AND 41-3-405 THROUGH 41-3-407, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 856

DO PASS

MARJORIE HART Chairman.

STATE PUB. CO.
Helena, Mont.

formed to investigate elderly abuse, found that the number of abused is slightly less than the amount of abused children. Mr. Briggs believes that the key to HB880 is the mandatory reporting aspect. Mr. Briggs believes this mandatory reporting is necessary to obtain data. Representative Bergene closed the hearing by stating that she noticed some "technical flaws" in the bill that need to be changed. Senator Turnage stated that he has problems with the "sovereign immunity" provision in Section 7, and that he feels the bill should contain a severability clause.

Ms. Shirley Hunnis, Montana Nurses Association, supports HB880.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 856: Representative Bergene, sponsor of the bill, stated that this bill provides for limited emancipation of people ages 16-18.

Ms. Billie Nimmons, a senior in high school, testified that she believes this bill in in the best interest of the children of Montana. Ms. Nimmons has lived alone and been self-supporting since she lost her parents. Ms. Nimmons feels this bill will save money for the SRS and save some children from having to go through the trauma of being placed in a foster home.

Mr. Dick Meeker, Chief Probation Officer for the First Judicial District, testified that 50 percent of the children who come into contact with the probation system are abused children. He also testified that HB856 is an effort to help children who are responsible enough to establish themselves in the community yet still give guidance in areas where it is needed. Mr. Meeker reminded the Committee that abused children become abusive parents.

Ms. Norma Vestre testified that she supports HB856.

Ms. Stacey Flaherty, representing the Women's Lobbyist Fund, submitted written testimony (see attached Exhibit "J") in support of HB856.

OPPOSITION: Mr. Glen Hufstetter, Chief Probation Officer for the Eleventh Judicial District, testified that he has a few problems with the bill.. One of his problems is that he is concerned because under this system, a youth could apply and obtain food stamps at state expense. Mr. Hufstetter also wondered who would be responsible for the attorney fees incurred in removing the child from the home. Mr. Hufstetter was also concerned as to what would happen in the situation where this privilege had to be revoked. Mr. Hufstetter was concerned with how a child would be able to pay his bills, such as medical costs.

Exhibit "J"
March 23, 1983
HB856

(This sheet to be used by those testifying on a

NAME: Stacy Flaherty DATE: 3/23/83

ADDRESS: Box 1099, Helena

PHONE: 449-7917

REPRESENTING WHOM? Women's Lobbyist Fund

APPEARING ON WHICH PROPOSAL: HB856

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENT:

The Women's Lobbyist Fund supports HB856 because it allows an adolescent the flexibility needed to cope with difficult family situations as mentioned in the bill.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

FURTHER CONSIDERATION OF HOUSE BILL 565: Senator Daniels had questions as to who decides what is legible and what is illegible. The Committee decided that HB565 should be amended to provide that the Clerks and Recorders must attach a note to the recorded document stating that this document is illegible and the only copy available.

ACTION ON HOUSE BILL 565: Senator Crippen moved that HB362 BE RECONSIDERED. This motion carried unanimously. Senator Shaw moved that the proposed amendments BE ADOPTED. This motion carried unanimously. Senator Mazurek moved that HB362 BE CONCURRED IN AS AMENDED. This motion carried with Senators Daniels and Shaw voting in opposition.

FURTHER CONSIDERATION OF HOUSE BILL 191: Senator Turnage questioned the tax implications of HB191. He questioned the use of the word "common." Senator Mazurek did not like the use of the word "disposition."

ACTION ON HOUSE BILL 191: Senator Daniels moved that HB191 BE TABLED. This motion carried unanimously.

ACTION ON HOUSE BILL 856: Senator Mazurek moved that the proposed amendment to HB856 BE ADOPTED. This motion carried unanimously. Senator Berg moved that HB856 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 880: Senator Mazurek moved that a severability clause to HB880 BE ADOPTED. This motion carried unanimously. Senator Berg moved that HB880 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 357: Proposed amendments to HB357 were submitted to the Committee, and Senator Mazurek moved that these amendments BE ADOPTED. This motion carried unanimously. Senator Mazurek then moved that HB357 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 540: Senator Shaw moved that HB540 BE TABLED. This motion failed. Senator Berg moved that the proposed amendments to HB540 BE ADOPTED. This motion carried with Senator Daniels voting in opposition. Senator Mazurek moved that HB540 BE CONCURRED IN AS AMENDED. This motion carried with Senators Galt, Shaw and Daniels voting in opposition.

ACTION ON HOUSE BILL 677: Senator Daniels moved that HB677 BE CONCURRED IN. This motion failed. Senator Daniels moved that